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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,022	04/26/2005	Thomas Schmidt	502901-335	2198
27799 7590 08/25/2010 COHEN, PONTANI, LIEBERMAN & PAVANE LLP 551 FIFTH AVENUE SUITE 1210 NEW YORK, NY 10176				
EXAMINER WEINSTEIN, LEONARD J				
ART UNIT 3746		PAPER NUMBER		
MAIL DATE 08/25/2010		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/533,022

**Applicant(s)**

SCHMIDT, THOMAS

**Examiner**

LEONARD J. WEINSTEIN

**Art Unit**

3746

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2, 4, 6, 7 and 10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 6, 7 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This office action is in response to the amendment of June 23, 2010. In making the below rejections and/or objections the examiner has considered and addressed each of the applicant's arguments.
2. The examiner acknowledges the amendments to claim 1. The examiner acknowledges that claims 8 and 9 have been canceled.

### *Claim Objections*

3. Claim 1 is objected to because of the following informalities: the recitation of "lip with the of the plug casing" should be amended to be --- lip with the ~~of the~~ plug casing --  
- .
4. Claims 2, 4, and 10 are objected to because of the following informalities: each claim includes the recitation of "the sealing lip" that should be amended to recite --- the circumferential sealing lip ---.
5. Claim 10 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The claim depends from claim 8 which has been canceled. As best understood by the examiner claim 10 will be examined as if it depended from claims 1.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1, 2, 4, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herster US 5,631,445 ("Herster") in view of Zoell et al. US 6,478,613 (Zoell).

a. With respect to **claim 1**

i. **Herster** – Herster teaches all the limitations as claimed for a connection piece 20 for a fuel pump 22 including: a receiving device 58 a plug 34 arranged in the receiving device 58, the plug 34 having electrical contacts (44, 45) for connecting an electric motor (not shown) of the fuel pump 22 to a mains supply (via 28) and an integrally formed, circumferential sealing lip (lower horizontal surface of groove 62; "62") which includes a region that is oriented toward the electrical contacts (44, 45) and which seals the plug 32 against the receiving device 58 (Herster -

col. 4 ll. 45-50) when fuel is conveyed through the fuel pump 22 (collar 62, groove 62, and O-ring 66 form a seal whenever plug 32 is inserted into cover 20, the plug is inserted into the cover 20 when the fuel pump 22 operates therefore the lower horizontal surface of the groove seals the plug while the pump 22 operates), the plug forms a plug casing (50, 54, 56, 60, 64) in which the circumferential sealing lip 62 is integrally formed together with the plug casing (50, 54, 56, 60, 64) in one working step (since the plug 32 is a single monolithic element) to permit simultaneous production of the integrally formed circumferential sealing lip 62 with the plug casing (50, 54, 56, 60, 64);

ii. **Zoell** – Herster does not teach the limitations for a plug that is extrusion coated with plastic as taught by Zoell.

iii. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have coated the plug of Kempfer with plastic as taught by Zoell to protect the parts from the fuel (Zoell - Abstract).

iv. It has been held that the “determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production.” *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ (Fed. Cir. 1985). The examiner notes that the recitation of a circumferential sealing lip formed together in one working step with a plug casing has not been given patentable weight because the limitation constitutes a method

step that has been recited in a claim for an apparatus. Statements like these are treated as a product by process claim limitations. Therefore the claimed method steps are not germane to the patentability of the apparatus. MPEP §2113.

- b. With respect to **claims 2, 4, and 7** Herster teaches all the limitations as claimed including:

**[claim 2]** wherein the circumferential sealing lip 62 is arranged on the plug 32 in a region of a bushing 56 of the electrical contacts (44, 45);

**[claim 4]** wherein the circumferential sealing lip 62 is elastically deformable (element 50 deforms and elastically returns to a resting position once the plug 32 is inserted into cover 20 far enough for notched sections 60 to engage the face of the ring 58; as all of element 32 is made from the same material and at least one part of the plug 32 deforms the lip as defined by groove 62 is formed from a material that is generally elastic);

**[claim 7]** wherein the receiving device 58 receives and holds the plug 32 by a latching means (via notched ends 60 of tabs 50 snapping/latching to the end face of the ring 58).

9. Claims 1, 6, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobman et al. US 5,697,769 in view of Zoell.

- a. With respect to **claim 1**

- i. **Kobman** – Kobman teaches all the limitations as claimed for a connection piece 30 for a fuel pump 20 including: a receiving device 68 a plug (element 32 including elements 54, 56, 58, 62, 64, 75, and 76; “32”) arranged in the receiving device 68, the plug 32 having electrical contacts (75, 76) for connecting an electric motor (33, 34) of the fuel pump 20 to a mains supply (via 28) and an integrally formed, circumferential sealing lip (56) which includes a region (upper face of element 56 that abuts the lower end face of element 68) that is oriented toward the electrical contacts (75, 76) and which seals the plug 32 against the receiving device 68 when fuel is conveyed through the fuel pump 20 (flange 56 and skirt 68 form a seal whenever plug 32 is inserted into cover 30 (i.e. connection piece), the plug 32 is inserted into the cover 30 when the fuel pump 20 operates therefore the lower horizontal surface of the flange 58 seals the plug 32 while the pump 20 operates), the plug 32 forms a plug casing (54, 56, 62, 64, 75, 76) in which the circumferential sealing lip 56 is integrally formed together with the plug casing 54 in one working step (since the plug at least flange 56 and base is a single monolithic element) to permit simultaneous production of the integrally formed circumferential sealing lip 56 with the plug casing (54, 56, 58);
- ii. **Zoell** – Herster does not teach the limitations for a plug that is extrusion coated with plastic as taught by Zoell.

- iii. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have coated the plug of Kempfer with plastic as taught by Zoell to protect the parts from the fuel (Zoell - Abstract).
- b. With respect to **claims 6 and 10** Kobman teaches all the limitations as claimed including:
- [claim 6]** wherein the connection piece 30 defines a recess (as defined by the space surround the by skirt 68 just underneath the shoulder formed between the bottom of the side wall 66 and the top of the skirt 68; "66/68") said material forming plug casing 32 forming an edge (outer top edge of base 54 disposed below shoulder defined between the skirt 68 and side wall 66; "54-top edge") around said electrical contacts (75, 76), said recess (66/68) receiving said edge (54-top edge), and said circumferential sealing lip 56 surrounding said recess (66/68) on an inner side of said connection piece 30; and
- [claim 10]** wherein the receiving device 68 is configured so that, in an installed state of the connection piece 30 on the fuel pump 20, fuel pressure acts on the plug 32 from one side to press the circumferential sealing lip 56 against the connection piece 30.

***Response to Arguments***



10. Applicant's arguments with respect to claims 1, 2, 4, 6, 7, and 10 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEONARD J. WEINSTEIN whose telephone number is (571)272-9961. The examiner can normally be reached on Monday - Thursday 7:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on (571) 272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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